

Remarks

Applicant has amended the claims to clarify the claim language in view of the indefiniteness rejections. No new matter has been added.

Applicant respectfully requests a two month extension of time, to an including October 24, 2004, for responding to the Office Action mailed May 24, 2004

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 1-15, 17-21, 23, 24, 38-45, 47, 48 and 92 under 35 U.S.C. § 112, first paragraph as indefinite. Applicants have amended the claims to clarify the claim language, and accordingly request reconsideration of the rejection of the claims as indefinite.

Rejections Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-15, 17-21, 23, 24, 38-45, 47, 48 and 92 under 35 U.S.C. § 102(e) as anticipated by Fire et al. (US 6,506,559 B1). Applicant respectfully traverses the rejection.

Both of Applicant's priority applications, GB 9814536.0 filed July 3, 1998 and GB9827152.1 filed December 9, 1998, fully disclose the subject matter of the claimed invention. The priority documents were each filed prior to the filing date of the Fire patent. The priority documents were submitted in the instant application on March 8, 2001.

Therefore, as evidenced by Applicant's priority applications, claimed invention was invented prior to the Fire patent filing, and thus the claims should not be rejected over the Fire patent.

Withdrawal of the rejection of the claims under 35 U.S.C. § 102(e) is therefore respectfully requested.

Double Patenting

The Examiner provisionally rejected claims 1-15, 17-21, 23, 24, 38-45, 47, 48 and 92 as unpatentable over claims of copending application 10/057,108 for obviousness-type double patenting.


Applicant notes that the rejection is a provisional rejection because none of the claims in either case have yet been patented. Accordingly, Applicant makes no response at this time, except to note that the claims of these two applications differ at least in that the claims of the instant application do not require the feeding of a micro-organism as alleged by the Examiner on page 6 of the Office Action.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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